SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Governmental Oversight and Productivity Committee

BILL: PCS/SB 1064

INTRODUCER: Governmental Oversight and Productivity Committee and Senator Clary and others

SUBJECT: FRS/DROP/Grades K-12 Personnel

DATE: April 14, 2006 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brown	Matthews	ED	**Favorable**
2.	Wilson	Wilson	GO	**Pre-meeting**
3.			WM	
4.				
5.				
6.				

I. Summary:

This bill permits district school superintendents to authorize school principals and assistant principals to extend participation in the Deferred Retirement Option Program (DROP) program an additional 36 months, beyond the current 60-month maximum authorized.

This bill substantially amends section 121.091 of the Florida Statutes.

II. Present Situation:

Florida Retirement System and the Deferred Retirement Option Program

The Florida Retirement System (FRS) is a multi-employer, non-contributory pension plan providing retirement income benefits to the more than 625,000 active and 210,000 retired members and beneficiaries of its more than 850 state and local government public employers. Originally established in 1970 as the successor to the Teachers' Retirement System and the State, and County Officers' and Employees' Retirement System, the FRS is today a combination of four previously separate pension plans. Benefit payments are administered by the Department of Management Services through its Division of Retirement while investment management is undertaken by the Board of Administration. Established as a Section 401(a) government plan under the Internal Revenue Code, its benefits are exempt from federal taxation until received by the employee.

All membership classes of its Pension Plan permit enrollment in a Deferred Retirement Option Program (DROP) under which a participant may extend employment for an additional five years - eight years for instructional personnel in district school boards - and receive a lump sum benefit at a fixed rate of interest for that additional service. Enrollment in DROP requires the participant to serve the employer with a deferred resignation from employment at the end of the period. The defined benefit plan also includes a fixed, annual cost-of-living adjustment of three percent. Upon termination of employment, the participant receives total DROP benefits in addition to beginning to receive original normal retirement benefits. Members entering DROP are permitted to pre-select their DROP end date, or final termination date.

Administrative Personnel

Administrative personnel are defined in s. 1012.01(3)(c), F.S., as:

> School principals or school directors who are staff members performing assigned activities as the administrative head of a school and to whom have been delegated responsibility for the coordination and administrative direction of the instructional and noninstructional activities of the school.

Classes of administrative personnel include district school superintendents and assistant superintendents, school principals and assistant principals, career center directors, and others who perform management tasks.[1]

III. Effect of Proposed Changes:

This bill authorizes school administrators employed in the area of K-12 education to elect to extend participation in DROP for an additional 36 months, for a total of 96 months in DROP, provided that the extension is approved by a local district superintendent.

School administrators will receive the same option to extend participation in DROP beyond the standard 60 months as is currently provided to instructional personnel.

Language in the bill provides that a proper and legitimate state purpose is served when employees and retirees of the state and its political subdivisions, and the dependents, survivors, and beneficiaries of such employees and retirees, are extended the basic protections from retirement systems which give fair and adequate benefits, thereby serving an important state interest.[2] It is unclear what impact, if any, this statement will have, as the provisions of this bill do not appear to create an unfunded mandate.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

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[1] *Id.*

[2] Article VII, Section 18, of the State Constitution provides: "No county or municipality shall be bound by any general law requiring such county or municipality to spend funds or to take an action requiring the expenditures of funds unless the legislature has determined that such law fulfills an important state interest and unless: funds have been appropriated that have been estimated at the time of enactment to be sufficient to fund such expenditure…."

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Administrative employees who are eligible to participate in extended DROP will benefit from this bill, provided that the enrollment is approved by a district school superintendent.

C. Government Sector Impact:

Data on DROP Participants

In 2002, 472 administrators entered DROP, and in 2003, 413 administrators entered DROP. For the 6-year period from 1998 through 2003, a total of 2,988 administrators entered DROP.[3] About 8.6 percent of administrators employed in 2003 intended to leave employment to enter DROP. No data exists beyond 2003. Of those administrators who chose the full time authorized in DROP, it is unclear how many would elect to extend beyond the 60 month maximum, as it is not currently an option.

Data is available, however, on the number of teachers who applied for extensions beyond the 60 month maximum. By way of comparison, as of mid-December, 2003, of the 304 teachers who applied for extensions:

i. 62 teachers requested six months or less;
ii. 44 requested seven to 11 months;
iii. 181 requested one year; and
iv. 17 requested more than one year.[4]

Many of these extensions were intended to make the final leave date of the participant coincide with the end of a calendar or school year. Administrative personnel receive, as a group, higher compensation than do instructional personnel; however, any impact of the salary difference is indeterminate.

[3] "*The Effect of the Deferred Retirement Option Program (DROP) On Teacher and Administrator Retirements*", Division of Accountability, Research and Measurement, Florida Department of Education (February 2004).
[4] *Id.* at 5.

Examples of average school district salaries for the 2005 fiscal year for personnel affected by this bill are as follows:

District/associate/area superintendent	$ 121,520
Personnel	$ 78,983
Facilities	$ 83,075
Transportation	$ 58,715
Food Service	$ 61,375
High school principal	$ 82,916
Elementary school principal	$ 76,398
Assistant principal/high school	$ 63,460
Assistant principal/elementary school	$ 57,162
Deans	$ 49,501

Sound Actuarial Basis Requirement

Section 14 of Article X of the State Constitution requires that any changes made to a publicly funded retirement or pension system resulting in an increase in member or beneficiary benefits must also include provision for the funding of the increase in benefits on a sound actuarial basis.

The Department of Management Services estimates the following potential cost impacts:

- Salary Differentials: A new hire may be paid a much different salary than an existing employee extending DROP participation.
- FRS Contribution Rates: A cost impact may result from the difference between the DROP contribution rate and the contribution rate for the FRS membership class.

Still, once a person is in DROP, the FRS impact is already being funded. According to the Milliman actuarial study,[5] it is expected that expansion of the members eligible for extended DROP participation would have a nominal fiscal impact and would actually depend upon how frequently the district school board authorizes the extension. In other words, as the local superintendent controls whether an administrative employee can extend, and, if so, for how long, it is difficult to ascertain impact. This impact can only be realized by future valuations, and incorporated into the rates recommended at that time. The study concludes that this bill complies with the constitutional requirement of actuarial soundness.

VI. Technical Deficiencies:

None.

[5] Milliman Consultants and Actuaries, December 22, 2005.

VII. Related Issues:

According to the Department of Management Services, the impetus for providing extended DROP authority to instructional personnel was to alleviate the critical shortage of teachers in grades K-12, which was exacerbated by the number of teachers who would terminate because they had reached their maximum DROP participation in June 2003. It is expected that as this option is offered to new groups, increasing pressure develops for parity to be the motivating factor, rather than the original goal of providing immediate temporary relief to a critical problem. Therefore, the effect of expanding the extension provision may have future impact in terms of additional groups requesting the same authority.

Additionally, the Department of Management Services indicates that this provision may contravene existing legislative intent. The Florida Protection of Public Employee Retirement Benefits Act, contained in Part VII of Chapter 112, F.S., provides legislative intent that the retirement systems and plans be fairly and equitably funded. Further:

> Accordingly, except as herein provided, it is the intent of this act to prohibit the use of any procedure, methodology, or assumptions the effect of which is to transfer to future taxpayers any portion of the costs which may reasonably have been expected to be paid by the current taxpayers.[6]

[6] Section 112.61, F.S.

VIII. Summary of Amendments:

None.